

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79109797
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION (no change)	
ARGUMENT(S)	
<p>Attached hereto is a Letter of Consent executed by Registrant and Applicant setting forth the factors they believe that support that their respective amrks are capable of co-existing without confusion.</p> <p>It is respectfully requested that based thereon the Examining Attorney withdraw the objection and allow the mark for publication. In this regard, it is noted that the Court of Appeals for the Federal Circuit has stated on numerous occasions that the Examining Attorney is required to accord due deference to letters of consent. This is based on the fact that if the registrant and applicant believe that confusion is unlikely, the Examiner should respect the parties' business acumen. In <i>In re E.I. du Pont de Nemours &amp; Co.</i>, 177 USPQ 563, 568, the Court of Customs and Patent Appeals stated:</p> <p style="padding-left: 40px;">[W]hen those most familiar with use in the marketplace and most interested in precluding confusion enter agreements designed to avoid it, the scales of evidence are clearly tilted. It is at least difficult to maintain a subjective view that confusion will occur when those directly concerned say it won't. A mere <i>assumption</i> that confusion is likely will rarely prevail against uncontroverted evidence from those on the firing line that it is not.</p> <p>See also <i>Bongrain International (American) Corporation v. Delice de France Inc.</i>, 1 USPQ 2d 1775 (CAFC 1987); <i>In re Leonard S.A.</i>, 2 USPQ 2d 1800 (TTAB 1987); and <i>Amalgamted Bank of New York v. Amalgamated Trust &amp; Savings Bank</i>, 6 USPQ2d 1305 (CAFC 1988).</p> <p>Applicant has filed a Notice of Appeal to protect its rights.</p> <p>However Applicant beleives that the attached evidence supports withdrawal of the refusal and allowance of the application. be remanded to the Examining Attorney for allowance for publication.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<a href="#">evi_216759226-122241854_.ART_Racing_Technology_Consent_5.2.13.pdf</a>
CONVERTED PDF FILE(S) (3 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\791\097\79109797\xml7\RFR0002.JPG</a>

	<a href="\\TICRS\EXPORT16\IMAGEOUT16\791\097\79109797\xml7\RFR0003.JPG">\\TICRS\EXPORT16\IMAGEOUT16\791\097\79109797\xml7\RFR0003.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\791\097\79109797\xml7\RFR0004.JPG">\\TICRS\EXPORT16\IMAGEOUT16\791\097\79109797\xml7\RFR0004.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Executed Letter of Consent.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Julie B. Seyler/
<b>SIGNATORY'S NAME</b>	Julie B. Seyler
<b>SIGNATORY'S POSITION</b>	Attorney of record- NY Bar
<b>SIGNATORY'S PHONE NUMBER</b>	212-949-9022
<b>DATE SIGNED</b>	05/02/2013
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Thu May 02 12:29:36 EDT 2013
<b>TEAS STAMP</b>	USPTO/RFR-216.75.92.26-20 130502122936256912-791097 97-5008f4a312a6e8a4ad041a 08483507f9957d4c5e3d949df e3b9310d2cd62cef-N/A-N/A- 20130502122241854790

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. **79109797** has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

Attached hereto is a Letter of Consent executed by Registrant and Applicant setting forth the factors they believe that support that their respective amrks are capable of co-existing without confusion.

It is respectfully requested that based thereon the Examining Attorney withdraw the objection and allow the mark for publication. In this regard, it is noted that the Court of Appeals for the Federal Circuit has stated on numerous occasions that the Examining Attorney is required to accord due deference to letters of consent. This is based on the fact that if the registrant and applicant believe that confusion is unlikely, the Examiner should respect the parties' business acumen. In *In re E.I. du Pont de Nemours & Co.*, 177 USPQ 563, 568, the Court of Customs and Patent Appeals stated:

[W]hen those most familiar with use in the marketplace and most interested in precluding confusion enter agreements designed to avoid it, the scales of evidence are clearly tilted. It is at least difficult to maintain a subjective view that confusion will occur when those directly concerned say it won't. A mere *assumption* that confusion is likely will rarely prevail against uncontroverted evidence from those on the firing line that it is not.

See also *Bongrain International (American) Corporation v. Delice de France Inc.*, 1 USPQ 2d 1775 (CAFC 1987); *In re Leonard S.A.*, 2 USPQ 2d 1800 (TTAB 1987); and *Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 6 USPQ2d 1305 (CAFC 1988).

Applicant has filed a Notice of Appeal to protect its rights.

However Applicant believes that the attached evidence supports withdrawal of the refusal and allowance of the application.  
be remanded to the Examining Attorney for allowance for publication.

#### **EVIDENCE**

Evidence in the nature of Executed Letter of Consent. has been attached.

##### **Original PDF file:**

[evi\\_216759226-122241854 . ART Racing Technology Consent 5.2.13.pdf](#)

##### **Converted PDF file(s) (3 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

#### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /Julie B. Seyler/ Date: 05/02/2013

Signatory's Name: Julie B. Seyler

Signatory's Position: Attorney of record- NY Bar

Signatory's Phone Number: 212-949-9022

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79109797

Internet Transmission Date: Thu May 02 12:29:36 EDT 2013

TEAS Stamp: USPTO/RFR-216.75.92.26-20130502122936256

912-79109797-5008f4a312a6e8a4ad041a08483

507f9957d4c5e3d949dfe3b9310d2cd62cef-N/A

-N/A-20130502122241854790



[illegible]

Applicant's Mark has been selected as a candidate due to the prior investigation of Karyson's Mark.

[illegible]

Applicant's Mark 50 is a well-defined registration due to the presence of the word "Mark" in the mark.

[illegible]

Leifland's Mark has been referred to as the poor's promise of Reagan's

1. The parties agree that the particular terms of the Licence Agreement may only be amended or supplemented in a written signed PS And policy.

15th Dec 2023

18-9 / 6/2013

Maria & Lucy  
Sally and I like

CURTIA MONTE

LUCY HOLLOTT

4. The parties agree that the particular terms of the Consent Agreement may only be modified or supplemented in a writing signed by both parties.

$$\text{Ans. } \frac{2}{\sqrt{5}} \times \frac{1}{2} = \frac{1}{\sqrt{5}}$$

Date: 2/12/23  
 Page: 1 of 1  
 Subject: English  
 Topic: English  
 Chapter: English  
 Section: English  
 Sub-section: English  
 Topic: English  
 Chapter: English  
 Section: English  
 Sub-section: English

For further details, see the [page 19](#) of the [2020](#) at [direct.com](#), or [contact me](#) only by [email](#) or [phone](#) in a [writing](#) signed by [my](#) partner.

06/2/2013

Time: 2/17/2013

Plants: C. Sp. 1  
Veg and Time

EXTRA: MONTE  
RICKY: HILGERS